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Paper No. 44

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**APR 09 2004**

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|                                |   |             |
|--------------------------------|---|-------------|
| In re Application of           | : |             |
| Cardy et al.                   | : |             |
| Application No. 08/737,457     | : | ON PETITION |
| Filed: March 12, 1997          | : |             |
| Attorney Docket No. 960670.CNC | : |             |

This is a decision on the petition under 37 CFR 1.137(b), filed March 1, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner in reply to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and /or Amino Acid Sequence Disclosures mailed January 13, 2003. The Notice set a period for reply of (30) Thirty Days from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136 have been obtained. Accordingly, the application became abandoned on February 14, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

Item (1), The reply filed March 1, 2004 fails to comply with the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed January 13, 2003. Accordingly, this application cannot be revived until a complete reply has been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail:                    Mail Stop Petitions  
                              Box DAC  
                              Washington, D.C. 20231

By facsimile:            (703) 872-9306  
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By hand:                 2201 South Clark Place  
                              Crystal Plaza 2, Lobby  
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Telephone inquiries concerning this decision should be directed to Latrice Bond at (703) 308-6911.



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